IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Sprogis	**GROUP:**	3622
SERIAL NO:	10/643,120	**EXAMINER:**	Carlson, Jeffrey
FILED:	August 18, 2003		
FOR:	VIDEO DATA SCHEDULING SYSTEM		

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Sir:

APPEAL BRIEF

Pursuant to 35 U.S.C. §134 and 37 C.F.R. §41.31, §41.35 and §41.37, Applicant respectfully appeals to the Board of Patent Appeals and Interferences from the Examiner's final rejection of each of claims 1 – 8 of Applicant's Patent Application Ser. No. 10/643,120 filed August 18, 2003, which is a continuation of Ser. No. 09/627,870 filed July 28, 2000, which claims priority to U.S. Provisional Patent Application Ser. No. 60/148,807 filed August 13, 1999.

I.   Real Party of Interest

The real party of interest in the present application is the assignee of record, Cinecast LLC of 121 Columbia Street, Cambridge, Massachusetts.

II.   Related Appeal and Interferences

The present application has no related cases that are the subject of a pending appeal or interference.

III.   Status of Claims

Each of the pending claims 1 – 8 stands rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,141,530 (to Rabowsky) in view of U.S. Patent No. 6,698,020 (to Zigmond et al), and each of claims 1 – 8 is being appealed.

IV.   Status of Amendments

No amendments have been filed subsequent to the mailing of the final rejection on May 1, 2008.

V.   Summary of Claimed Subject Matter

The present invention involves a video data scheduling system that includes, in part, schedule means configured to access a subset of content data in a computer storage unit responsive to context data and show schedule information. In accordance with specific embodiments, for example, the system automatically matches content data with actual movie showings, and develops a schedule of content data for each actual movie showing based on context data as specified in the claims. Because such schedules must take into account many concerns such as appropriateness of content, avoiding repetition, and variety, this automated scheduling is a complex and dynamic task. Historically, such scheduling was performed for each individual showing by one or more persons.

In further embodiments for example, the system includes presentation means that assembles presentation data that includes data representative of the length of time that a subset of content data will run.

In further embodiments for example, the system includes request receiving means that is configured to receive a job schedule request for the presentation of requested video information, and the selected digital content is selected responsive to the job schedule request.

In further embodiments for example, the system further includes job approval means that is configured to receive data representative of whether a job schedule request is approved.

With regard to claim 1, the invention is directed to a video data scheduling system (*Specification, page 15, lines 21 – 23 and reference 20 in Figure 2*) that includes a computer storage unit (*Specification, page 25, lines 21 – 23, page 26, lines 12 – 16, and reference 70 in Figure 5 and references 100 and 102 in Figure 6*) configured to store digital video data representative of video information (*Specification, page 31, lines 4 – 22*), said digital video data including content data (*Specification, page 31, lines 4 – 6*) regarding the content of the video information, and context data (*Specification, page 26, lines 13 – 18, page 31, lines 4 – 7 and 12 – 22, page 35, lines 14 – 15, page 38, lines 16 – 18, references 172, 174, 178, 180, 182 and 184 in Figure 9, references 262, 264, 266, 268 in Figure 11, and references 300, 302, 304, 306 in Figure 12*) regarding a scheduling context in which said video information is desired to be presented; a plurality of digital projector assemblies (*Specification, page 16, lines 2 – 4, page 19, lines 9 - 14, references 30 in Figure 2 and references 44 in Figure 4*) coupled to said computer storage unit (*Specification, page 25, lines 21 – 23, page 26, lines 12 – 16, and reference 70 in Figure 5 and references 100 and 102 in Figure 6*); schedule input means (*Specification, page 25, lines 15 – 16, page 26, lines 19 – 21, references 28 and 62 in Figure 5 and references 82 and 98 in Figure 6*) configured to receive show schedule information (*Specification, page 26, lines 16 –*

22, and page 36, lines 1 – 6) including a plurality of start times and locations at which each of a plurality of shows are scheduled to begin; schedule means (*Specification, page 24, lines 4 – 11, page 25, lines 17 – 19, page 36, lines 20 – 21, page 38, line 1 – page 39, line 12,, reference 72 in Figure 5 and reference 86 in Figure 6*) configured to access a subset of said content data in said computer storage unit (*Specification, page 25, lines 21 – 23, page 26, lines 12 – 16, and reference 70 in Figure 5 and references 100 and 102 in Figure 6*) responsive to said context data (*Specification, page 26, lines 13 – 18, page 31, lines 4 – 7 and 12 – 22, page 35, lines 14 – 15, page 38, lines 16 – 18, references 172, 174, 178, 180, 182 and 184 in Figure 9, references 262, 264, 266, 268 in Figure 11, and references 300, 302, 304, 306 in Figure 12*) and said show schedule information (*Specification, page 26, lines 16 – 22, and page 36, lines 1 – 6*); production means (*Specification, page 16, line 10 – page 17, line 15, page 25, lines 18 – 19, page 36, lines 22 – 23, page 39, line 13 – page 40, line 9, reference 24 in Figure 2 and reference 88 in Figure 6*) configured to assemble presentation data (*Specification, page 24, lines 7 – 15 and reference 76 in Figure 5*) including a subset of said content data (*Specification, page 31, lines 4 – 6*), said presentation data (*Specification, page 24, lines 7 – 15 and reference 76 in Figure 5*) being associated with a first show; and a first digital projector assembly of said plurality of digital projector assemblies (*Specification, page 15, line 22 – page 16, line 4, page 19, lines 9 - 14, references 30 in Figure 2 and references 44 in Figure 4*) configured to present said presentation data (*Specification, page 24, lines 7 – 15 and reference 76 in Figure 5*) such that said subset of said content data (*Specification, page 31, lines 4 – 6*) will be shown prior to a first start time associated with said first show at said first digital projector assembly.

With regard to claim 2, the invention is further directed to the video data scheduling system (*Specification, page 15, lines 21 – 23 and reference 20 in Figure 2*) of claim 1, wherein the presentation data (*Specification, page 24, lines 7 – 15 and reference 76 in Figure 5*) includes

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data representative of the length of time (*Specification, page 31, lines 12 – 17 and Figure 9*) that said subset of content data (*Specification, page 31, lines 4 – 6*) will run.

With regard to claim 3, the invention is further directed to the video data scheduling system (*Specification, page 15, lines 21 – 23 and reference 20 in Figure 2*) of claim 1, wherein the system further includes request receiving means (*Specification, page 15, line 22 – page 23, line 3 and reference 22 in Figure 2*) configured to receive a job schedule request (*Specification, page 35, lines 14 – 22 and reference 258 in Figure 11*) for the presentation of requested video information, and wherein the digital content data (*Specification, page 31, lines 4 – 6*) is selected responsive to the job schedule request (*Specification, page 31, lines 10 – 11 and page 32, lines 9 – 13*) and assembled for presentation by the production means (*Specification, page 16, line 10 – page 17, line 15, and reference 24 in Figure 2*).

With regard to claim 4, the invention is further directed to the video data scheduling system (*Specification, page 15, lines 21 – 23 and reference 20 in Figure 2*) of claim 1, wherein the system further includes job approval means (*Specification, page 32, lines 9 – 20 and references 208, 210, 212 and 220 in Figure 10*) configured to receive data representative of whether said job schedule request is approved (*Specification, page 32, lines 14 – 18 and reference 210 in Figure 10*).

With regard to claim 5, the invention is directed to a video data scheduling system (*Specification, page 15, lines 21 – 23 and reference 20 in Figure 2*) that includes a computer storage unit (*Specification, page 25, lines 21 – 23, page 26, lines 12 – 16, and reference 70 in Figure 5 and references 100 and 102 in Figure 6*) configured to store digital video data representative of video information (*Specification, page 31, lines 4 – 22*), said digital video data including content data (*Specification, page 31, lines 4 – 6*) regarding the content of the video information, and context data (*Specification, page 26, lines 13 – 18, page 31, lines 4 – 7 and 12 –*

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22, page 35, lines 14 – 15, page 36, lines 1 – 6, page 38, lines 16 – 18, references 172, 174, 178, 180, 182 and 184 in Figure 9, references 262, 264, 266, 268 in Figure 11, and references 300, 302, 304, 306 in Figure 12) regarding a scheduling context in which said video information is desired to be presented; a plurality of digital projector assemblies (*Specification, page 15, line 21 – page 16, line 4, page 19, lines 9 - 14, references 30 in Figure 2 and references 44 in Figure 4*) coupled to said computer storage unit (*Specification, page 25, lines 21 – 23, page 26, lines 12 – 16, and reference 70 in Figure 5 and references 100 and 102 in Figure 6*); schedule input means (*Specification, page 25, lines 15 – 16, page 26, lines 19 – 21, references 28 and 62 in Figure 5 and references 82 and 98 in Figure 6*) configured to receive show schedule information (*Specification, page 26, lines 16 – 22, and page 36, lines 1 – 6*) including a plurality of start times and locations at which each of a plurality of shows are scheduled to begin at each of said pluralities of digital projector assemblies; schedule means (*Specification, page 24, lines 4 – 11, page 25, lines 17 – 19, page 36, lines 20 – 21, page 38, line 1 – page 39, line 12,, reference 72 in Figure 5 and reference 86 in Figure 6*) configured to access a subset of said content data in said computer storage unit (*Specification, page 25, lines 21 – 23, page 26, lines 12 – 16, and reference 70 in Figure 5 and references 100 and 102 in Figure 6*) responsive to said context data (*Specification, page 26, lines 13 – 18, page 31, lines 4 – 7 and 12 – 22, page 35, lines 14 – 15, page 36, lines 1 – 6, page 38, lines 16 – 18, references 172, 174, 178, 180, 182 and 184 in Figure 9, references 262, 264, 266, 268 in Figure 11, and references 300, 302, 304, 306 in Figure 12*) and said show schedule information (*Specification, page 26, lines 16 – 22, and page 36, lines 1 – 6*); production means (*Specification, page 16, line 10 – page 17, line 15, page 25, lines 18 – 19, page 36, lines 22 – 23, page 39, line 13 – page 40, line 9, reference 24 in Figure 2 and reference 88 in Figure 6*) configured to assemble first presentation data (*Specification, page 24, lines 7 – 15 and reference 76 in Figure 5*) including a first subset of said content data

(*Specification, page 31, lines 4 – 6*), said presentation data (*Specification, page 24, lines 7 – 15 and reference 76 in Figure 5*) and being associated with a first show, and configured to assemble second presentation data including a second subset of said content data and being associated with a second show; and projector control means (*Specification, references 34 in Figure 2, and references 50 in Figure 4*) configured to present said first presentation data using said first projector assembly such that said first subset of content data will be shown prior to a first start time associated with said first show, and configured to present said second presentation data using said second projector assembly such that said second subset of content data will be shown prior to a second start time associated with said second show.

With regard to claim 6, the invention is further directed to the video data scheduling system (*Specification, page 15, lines 21 – 23 and reference 20 in Figure 2*) of claim 5 wherein the first presentation data (*Specification, page 24, lines 7 – 15 and reference 76 in Figure 5*) includes data representative of a length of time (*Specification, page 31, lines 12 – 17 and Figure 9*) that the first subset of content data (*Specification, page 31, lines 4 – 6*) will run.

With regard to claim 7, the invention is further directed to the video data scheduling system (*Specification, page 15, lines 21 – 23 and reference 20 in Figure 2*) of claim 5 wherein the first presentation data includes a plurality of subsets of the content data, and wherein each subset of content data is associated with a job schedule request, and wherein each job schedule request is associated with at least one attribute of the first show.

With regard to claim 8, the invention is directed to a video data scheduling system (*Specification, page 15, lines 21 – 23 and reference 20 in Figure 2*) that includes a plurality of digital projector assemblies (*Specification, page 15, line 21 – page 16, line 4, page 19, lines 9 - 14, references 30 in Figure 2 and references 44 in Figure 4*) coupled to a computer storage unit (*Specification, page 25, lines 21 – 23, page 26, lines 12 – 16, and reference 70 in Figure 5 and*

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references 100 and 102 in Figure 6); schedule input means (*Specification, page 25, lines 15 –*

16, page 26, lines 19 – 21, references 28 and 62 in Figure 5 and references 82 and 98 in Figure

6) configured to receive show schedule information (*Specification, page 26, lines 16 – 22, and*

page 36, lines 1 – 6) including a plurality of start times and locations at which each of a plurality

of shows are scheduled to begin at each of said pluralities of digital projector assemblies

(*Specification, page 15, line 21 – page 16, line 4, page 19, lines 9 - 14, references 30 in Figure 2*

and references 44 in Figure 4); job request means (*Specification, page 23, lines 10 – 16, page*

25, lines 15 – 17 and 20 – 21, page 26, lines 11 – 13, page 37, lines 3 – 5, page 38, lines 12 – 13,

references 28, 62, 64, 66 and 68 in Figure 5, and references 80, 84 and 94 in Figure 6)

configured to receive a plurality of job requests (*Specification, page 32, lines 9 – 11, page 34,*

lines 8 – 12, reference 206 in Figure 10 and reference 254 in Figure 11), each job request

including content data (*Specification, page 31, lines 4 – 6)* and context data (*Specification, page*

26, lines 13 – 18, page 31, lines 4 – 7 and 12 – 22, page 35, lines 14 – 15, page 36, lines 1 – 6,

page 38, lines 16 – 18, references 172, 174, 178, 180, 182 and 184 in Figure 9, references 262,

264, 266, 268 in Figure 11, and references 300, 302, 304, 306 in Figure 12) that is stored in said

computer storage unit (*Specification, page 25, lines 21 – 23, page 26, lines 12 – 16, and*

reference 70 in Figure 5 and references 100 and 102 in Figure 6); schedule means

(*Specification, page 24, lines 4 – 11, page 25, lines 17 – 19, page 36, lines 20 – 21, page 38, line*

1 – page 39, line 12, reference 72 in Figure 5 and reference 86 in Figure 6) configured to access

a subset of said content data (*Specification, page 31, lines 4 – 6)* in said computer storage unit

(*Specification, page 25, lines 21 – 23, page 26, lines 12 – 16, and reference 70 in Figure 5 and*

references 100 and 102 in Figure 6) responsive to a subset of said context data and said show

schedule information; production means (*Specification, page 16, line 10 – page 17, line 15, page*

25, lines 18 – 19, page 36, lines 22 – 23, page 39, line 13 – page 40, line 9, reference 24 in

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Figure 2 and reference 88 in Figure 6) configured to assemble first presentation data (*Specification, page 24, lines 7 – 15 and reference 76 in Figure 5*) including a first plurality of subsets of said content data (*Specification, page 31, lines 4 – 6*) and being associated with a first show, and configured to assemble second presentation data including a second plurality of subsets of said content data (*Specification, page 31, lines 4 – 6*) and being associated with a second show; and projector control means (*Specification, page 16, line 10 – page 17, line 15,page 25, lines 18 – 19,page 36, lines 22 – 23, page 39, line 13 – page 40, line 9, reference 24 in Figure 2 and reference 88 in Figure 6*) configured to present said first presentation data using said first projector assembly such that said first plurality of subsets of content data will be shown prior to a first start time associated with said first show, and configured to present said second presentation data using said second projector assembly such that said second plurality of subsets of content data will be shown prior to a second start time associated with said second show.

VI.   Grounds of Rejection to be Reviewed on Appeal

Each of claims 1 – 8 stands rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,141,530 (to Rabowsky) in view of U.S. Patent No. 6,698,020 (to Zigmond et al.).

VII.   Argument

Claim 1

Claim 1 stands rejected under 35 U.S.C. §103 over Rabowsky in view of Zigmond et al. Rabowsky discloses a system for distributing movies in a digital format to a plurality of theatres. The Rabowsky reference also discloses that an automated scheduling system is used to distribute the movies, and that each movie may include a trailer. The trailer, however, appears to be compiled at the central location or "Headend" (Rabowsky, col.12, lines 9 - 16). There is no

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disclosure in the Rabowsky reference regarding how the trailer is compiled at the Headend. The Rabowsky reference also states that a theatre operator may make modifications to the schedule (Rabowsky, col.12, lines 17 - 28).

Because Rabowsky discloses that its schedule of movies must be *authorized* (Rabowsky, col.2, lines 2 – 3), the schedule of movies is not disclosed to be automated. With regard to advertisements, the brief disclosure in Rabowsky of inserting an advertisement into a play-back schedule is also not automated. In fact, Rabowsky expressly states that a "theatre operator interface provides the operator with the ability to modify the schedule" (Rabowsky, col.12, lines 17 – 18). Further, the example of such insertion of advertisements in Rabowsky, is disclosed to be a *manual* insertion (Rabowsky, col.12, lines 26 – 28). The advertisements are also required to "not violate contractual terms" (Rabowsky, col. 12 , line 21).

Applicant respectfully submits, therefore, that Rabowsky *teaches away* from providing an automated selection system for advertisements because Rabowsky teaches that advertisements are manually selected. One skilled in the art would not have been motivated to modify Rabowsky in a way that is contrary to the teachings of Rabowsky. *Ex Parte Smoth*, 2007 WL 4357843 (Bd.Pat.App. & Interf. 2007) (agreeing with the applicant that the prior art teaches away from the claimed subject matter). Also, applicant's submit that by changing a system of Rabowsky, wherein advertisements are disclosed to be manually inserted, into an automated system, the principle of operation of Rabowsky would have to be completely changed by redesigning the Rabowsky system, which is impermissible under §103. See *Ex Parte Cross*, 2008 WL 2819359 (Bd.Pat.App. & Interf. 2008) (to modify the prior art to provide the functionality of the claim invention would "employ a completely different principle of operation"); and *Ex Parte Val Mandrusov*, 2008 WL 2845083 (modifying the prior art would "frustrate the principles of operation of the respective references."). Each of independent claims

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1, 5, and 8, on the other hand, requires, in part, a scheduling means configured to access a subset of content data in a computer storage unit responsive to context data and show schedule information. No such schedule means is disclosed or motivate by the manual head-end trailer scheduling procedure mentioned in Rabowsky.

Zigmond et al. discloses that a "targeted advertisement" may be selected for insertion into an existing "programming feed" and does not disclose the creation of a *schedule* of advertisements (Zigmond et al., col.6, lines 4 – 6). In particular, Zigmond et al. discloses that the programming feed includes national broadcast or cable programming that includes designated spots for local advertisements (Zigmond et al., co.1, lines 62 – 64; col.2, lines 26 – 30; and col.7, lines 5 – 8). Selecting individual ads for specific time allocated spots in a programming feed is not the same as creating a schedule of targeted ads, which is a far more complex undertaking. One skilled in the art would not have been motivated to employ an advertisement insertion system of Zigmond et al. to create a system that automatically generates a schedule of advertisements for a pre-showing at theatres because Zigmond et al. discloses only that an individual pre-existing time slot may be filled based on target criteria.

The present invention requires, in part, schedule means configured to access a subset of content data in the computer storage unit responsive to context data and show schedule information. In particular, claim 1 includes a computer storage unit, a plurality of digital projector assemblies coupled to the computer storage unit, schedule input means, the schedule means, production means, and a first digital projector assembly of the plurality of digital projector assemblies. The computer storage unit is configured to store digital video data representative of video information wherein the digital video data includes content data regarding the content of the video information, and context data regarding a scheduling context in which said video information is desired to be presented. The schedule input means is

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configured to receive show schedule information including a plurality of start times and locations at which each of a plurality of shows are scheduled to begin. The production means is configured to assemble presentation data including a subset of said content data, wherein the presentation data is associated with a first show. The first digital projector assembly is configured to present the presentation data such that the subset of the content data will be shown prior to a first start time associated with the first show at the first digital projector assembly.

Not only is there no motivation for modifying the system of Rabowsky with the "program feed" technique of Zigmond et al., but such a combined system would still not achieve the functionality as claimed claim 1. Moreover, any such modification would be contrary to the teachings of Rabowsky and would in fact, require a substantial impermissible redesign of the Rabowsky system.

It is respectfully submitted, therefore, that the rejection of claim 1 under §103 over Rabowsky in view of Zigmond et al. should be reversed.

Claim 2

Claim 2 stands rejected under 35 U.S.C. §103 over Rabowsky in view of Zigmond et al. Claim 2 depends from claim 1 and further requires that the presentation data include data representative of the length of time that the subset of content data will run. Claim 2, therefore, provides that the system is flexible by not requiring each subset of content data to be of a uniform time length, but instead the length of run time may be dynamically incorporated into the scheduling.

There is no motivation for modifying the system of Rabowsky with the "program feed" technique of Zigmond et al. to provide such a flexible automated system as claimed in claim 2.

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Moreover, any such modification would be contrary to the teachings of Rabowsky and would in fact, require a substantial impermissible redesign of the Rabowsky system.

It is respectfully submitted, therefore, that the rejection of claim 2 under §103 over Rabowsky in view of Zigmond et al. should be reversed.

Claim 3

Claim 3 stands rejected under 35 U.S.C. §103 over Rabowsky in view of Zigmond et al. Claim 3 depends from claim 1 and further requires request receiving means configured to receive a job schedule request for the presentation of requested video information, and that the digital content is selected responsive to the job schedule request and is assembled for presentation by the presentation means. Claim 3, therefore, specifically provides that job schedule requests are submitted, and that the digital content is selected based, in part, on the job schedule requests.

There is no motivation for modifying the system of Rabowsky with the "program feed" technique of Zigmond et al. to provide such a flexible automated job request based system as claimed in claim 3. Moreover, any such modification would be contrary to the teachings of Rabowsky and would in fact, require a substantial impermissible redesign of the Rabowsky system.

It is respectfully submitted, therefore, that the rejection of claim 3 under §103 over Rabowsky in view of Zigmond et al. should be reversed.

Claim 4

Claim 4 stands rejected under 35 U.S.C. §103 over Rabowsky in view of Zigmond et al. Claim 4 depends from claim 1 and further requires job approval means that is configured to receive data representative of whether the job schedule request is approved.

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There is no motivation for modifying the system of Rabowsky with the technique of Zigmond et al. to provide such a system that provides data representative of whether the job schedule request is approved. Only an automated system would require such a job approval means. Moreover, any such modification would be contrary to the teachings of Rabowsky and would in fact, require a substantial impermissible redesign of the Rabowsky system.

It is respectfully submitted, therefore, that the rejection of claim 4 under §103 over Rabowsky in view of Zigmond et al. should be reversed.

Claim 5

Claim 5 stands rejected under 35 U.S.C. §103 over Rabowsky in view of Zigmond et al. Again, Rabowsky discloses a system for distributing movies in a digital format to a plurality of theatres. The Rabowsky reference also discloses that an automated scheduling system is used to distribute the movies, and that each movie may include a trailer. The trailer, however, appears to be compiled at the central location or "Headend" (Rabowsky, col.12, lines 9 - 16). There is no disclosure in the Rabowsky reference regarding how the trailer is compiled at the Headend. The Rabowsky reference also states that a theatre operator may make modifications to the schedule (Rabowsky, col.12, lines 17 - 28).

Because Rabowsky discloses that its schedule of movies must be *authorized* (Rabowsky, col.2, lines 2 – 3), the schedule of movies is not disclosed to be automated. With regard to advertisements, the brief disclosure in Rabowsky of inserting an advertisement into a play-back schedule is also not automated. In fact, Rabowsky expressly states that a "theatre operator interface provides the operator with the ability to modify the schedule" (Rabowsky, col.12, lines 17 – 18). Further, the example of such insertion of advertisements in Rabowsky, is disclosed to

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be a *manual* insertion (Rabowsky, col.12, lines 26 – 28). The advertisements are also required to "not violate contractual terms" (Rabowsky, col. 12 , line 21).

Applicant respectfully submits, therefore, that Rabowsky *teaches away* from providing an automated selection system for advertisements because Rabowsky teaches that advertisements are manually selected. One skilled in the art would not have been motivated to modify Rabowsky in a way that is contrary to the teachings of Rabowsky. *Ex Parte Smoth, supra,* 2007 WL 4357843 (Bd.Pat.App. & Interf. 2007) (agreeing with the applicant that the prior art teaches away from the claimed subject matter). Also, applicant's submit that by changing a system of Rabowsky, wherein advertisements are disclosed to be manually inserted, into an automated system, the principle of operation of Rabowsky would have to be completely changed by redesigning the Rabowsky system, which is impermissible under §103. See *Ex Parte Cross, supra,* 2008 WL 2819359 (Bd.Pat.App. & Interf. 2008) (to modify the prior art to provide the functionality of the claim invention would "employ a completely different principle of operation"); and *Ex Parte Val Mandrusov, supra,* 2008 WL 2845083 (modifying the prior art would "frustrate the principles of operation of the respective references."). Each of independent claims 1, 5, and 8, on the other hand, requires, in part, a scheduling means configured to access a subset of content data in a computer storage unit responsive to context data and show schedule information. No such schedule means is disclosed or motivate by the manual head-end trailer scheduling procedure mentioned in Rabowsky.

Zigmond et al. discloses that a "targeted advertisement" may be selected for insertion into an existing "programming feed" and does not disclose the creation of a *schedule* of advertisements (Zigmond et al., col.6, lines 4 – 6). In particular, Zigmond et al. discloses that the programming feed includes national broadcast or cable programming that includes designated spots for local advertisements (Zigmond et al., co.1, lines 62 – 64; col.2, lines 26 –

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30; and col.7, lines 5 – 8). Selecting individual ads for specific time allocated spots in a programming feed is not the same as creating a schedule of targeted ads, which is a far more complex undertaking. One skilled in the art would not have been motivated to employ an advertisement insertion system of Zigmond et al. to create a system that automatically generates a schedule of advertisements for a pre-showing at theatres because Zigmond et al. discloses only that an individual pre-existing time slot may be filled based on target criteria.

The present invention requires, in part, schedule means configured to access a subset of content data in the computer storage unit responsive to context data and show schedule information. In particular, claim 5 includes a computer storage unit, a plurality of digital projector assemblies coupled to the computer storage unit, schedule input means, the schedule means, production means, and a projector control means. The computer storage unit is configured to store digital video data representative of video information wherein the digital video data includes content data regarding the content of the video information, and context data regarding a scheduling context in which said video information is desired to be presented. The schedule input means is configured to receive show schedule information including a plurality of start times and locations at which each of a plurality of shows are scheduled to begin at each of the plurality of digital projector assemblies. The production means is configured to assemble presentation data including a subset of said content data, wherein the presentation data is associated with a first show, and is configured to assemble second presentation data including a second subset of the content data that is associated with a second show. The projector control means is configured to present the first presentation data using the first projector assembly such that the first subset of content data will be shown prior to a first start time associated with the first show, and is configured to present the second presentation data using the second projector

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assembly such that the second subset of content data will be shown prior to a second start time associated with the second show.

Not only is there no motivation for modifying the system of Rabowsky with the "program feed" technique of Zigmond et al., but such a combined system would still not achieve the functionality as claimed claim 5, which requires different subsets to be scheduled for different digital projector assemblies. Moreover, any such modification of Rabowsky would be contrary to the teachings of Rabowsky and would in fact, require a substantial impermissible redesign of the Rabowsky system.

It is respectfully submitted, therefore, that the rejection of claim 5 under §103 over Rabowsky in view of Zigmond et al. should be reversed.

Claim 6

Claim 6 stands rejected under 35 U.S.C. §103 over Rabowsky in view of Zigmond et al. Claim 6 depends from claim 5 and further requires that the presentation data include data representative of the length of time that the first subset of content data will run. Like Claim 2, Claim 6 provides that the system is flexible by not requiring each subset of content data to be of a uniform time length, but instead the length of run time may be dynamically incorporated into the scheduling.

There is no motivation for modifying the system of Rabowsky with the "program feed" technique of Zigmond et al. to provide such a flexible automated system as claimed in claim 6. Moreover, any such modification would be contrary to the teachings of Rabowsky and would in fact, require a substantial impermissible redesign of the Rabowsky system.

It is respectfully submitted, therefore, that the rejection of claim 6 under §103 over Rabowsky in view of Zigmond et al. should be reversed.

Claim 7

Claim 7 stands rejected under 35 U.S.C. §103 over Rabowsky in view of Zigmond et al. Claim 7 depends from claim 5 and further requires that the first presentation data includes a plurality of subsets of the content data, requires that each of the subsets of content data be associated with a job schedule request, and requires that each of the job schedule requests is associated with at least one attribute of the first show. Claim 7, therefore, is specifically directed to the multi-dimensional functional aspects of the system that permits a schedule of a plurality of subsets of content to be developed wherein each subset of content has at least one attribute in common with the first show.

There is no motivation for modifying the system of Rabowsky with the "program feed" technique of Zigmond et al. to provide such a multi-dimensional funcational automated system as claimed in claim 7. Moreover, any such modification would be contrary to the teachings of Rabowsky and would in fact, require a substantial impermissible redesign of the Rabowsky system.

It is respectfully submitted, therefore, that the rejection of claim 7 under §103 over Rabowsky in view of Zigmond et al. should be reversed.

Claim 8

Claim 8 stands rejected under 35 U.S.C. §103 over Rabowsky in view of Zigmond et al. Again, Rabowsky discloses that an automated scheduling system is used to distribute the movies, and that each movie may include a trailer. The trailer, however, appears to be compiled at the central location or "Headend" (Rabowsky, col.12, lines 9 - 16). There is no disclosure in the Rabowsky reference regarding how the trailer is compiled at the Headend. The Rabowsky

reference also states that a theatre operator may make modifications to the schedule (Rabowsky, col.12, lines 17 - 28).

Because Rabowsky discloses that its schedule of movies must be *authorized* (Rabowsky, col.2, lines 2 – 3), the schedule of movies is not disclosed to be automated. With regard to advertisements, the brief disclosure in Rabowsky of inserting an advertisement into a play-back schedule is also not automated. In fact, Rabowsky expressly states that a "theatre operator interface provides the operator with the ability to modify the schedule" (Rabowsky, col.12, lines 17 – 18). Further, the example of such insertion of advertisements in Rabowsky, is disclosed to be a *manual* insertion (Rabowsky, col.12, lines 26 – 28). The advertisements are also required to "not violate contractual terms" (Rabowsky, col. 12 , line 21).

Applicant respectfully submits, therefore, that Rabowsky *teaches away* from providing an automated selection system for advertisements because Rabowsky teaches that advertisements are manually selected. One skilled in the art would not have been motivated to modify Rabowsky in a way that is contrary to the teachings of Rabowsky. *Ex Parte Smoth, supra*, 2007 WL 4357843 (Bd.Pat.App. & Interf. 2007) (agreeing with the applicant that the prior art teaches away from the claimed subject matter). Also, applicant's submit that by changing a system of Rabowsky, wherein advertisements are disclosed to be manually inserted, into an automated system, the principle of operation of Rabowsky would have to be completely changed by redesigning the Rabowsky system, which is impermissible under §103. See *Ex Parte Cross, supra*, 2008 WL 2819359 (Bd.Pat.App. & Interf. 2008) (to modify the prior art to provide the functionality of the claim invention would "employ a completely different principle of operation"); and *Ex Parte Val Mandrusov, supra*, 2008 WL 2845083 (modifying the prior art would "frustrate the principles of operation of the respective references."). Each of independent claims 1, 5, and 8, on the other hand, requires, in part, a scheduling means configured to access a

subset of content data in a computer storage unit responsive to context data and show schedule information. No such schedule means is disclosed or motivate by the manual head-end trailer scheduling procedure mentioned in Rabowsky.

Zigmond et al. discloses that a "targeted advertisement" may be selected for insertion into an existing "programming feed" and does not disclose the creation of a *schedule* of advertisements (Zigmond et al., col.6, lines 4 – 6). In particular, Zigmond et al. discloses that the programming feed includes national broadcast or cable programming that includes designated spots for local advertisements (Zigmond et al., co.1, lines 62 – 64; col.2, lines 26 – 30; and col.7, lines 5 – 8). Selecting individual ads for specific time allocated spots in a programming feed is not the same as creating a schedule of targeted ads, which is a far more complex undertaking. One skilled in the art would not have been motivated to employ an advertisement insertion system of Zigmond et al. to create a system that automatically generates a schedule of advertisements for a pre-showing at theatres because Zigmond et al. discloses only that an individual pre-existing time slot may be filled based on target criteria.

The present invention requires, in part, schedule means configured to access a subset of content data in the computer storage unit responsive to context data and show schedule information. In particular, claim 8 includes a plurality of digital projector assemblies coupled to a computer storage unit, schedule input means, job request means, the above schedule means, production means, and projector control means. The schedule input means is configured to receive show schedule information including a plurality of start times and locations at which each of a plurality of shows are scheduled to begin at each of the plurality of digital projector assemblies. The job request means is configured to receive a plurality of job requests, each job request including content data and context data that is stored in the computer storage unit. The production means is configured to assemble first presentation data including a first plurality of

subsets of the content data that is associated with a first show, and is configured to assemble second presentation data including a second plurality of subsets of the content data that is associated with a second show. The projector control means is configured to present the first presentation data using the first projector assembly such that the first plurality of subsets of content data will be shown prior to a first start time associated with the first show, and is configured to present the second presentation data using the second projector assembly such that the second plurality of subsets of content data will be shown prior to a second start time associated with the second show.

Not only is there no motivation for modifying the system of Rabowsky with the "program feed" technique of Zigmond et al., but such a combined system would still not achieve the functionality as claimed claim 8, which requires different subsets to be scheduled for different digital projector assemblies. Moreover, any such modification of Rabowsky would be contrary to the teachings of Rabowsky and would in fact, require a substantial impermissible redesign of the Rabowsky system.

It is respectfully submitted, therefore, that the rejection of claim 8 under §103 over Rabowsky in view of Zigmond et al. should be reversed.

VIII. Claims Appendix

All claims are as follows. Claims 1 – 8 are being appealed.

1.   A video data scheduling system comprising:

a computer storage unit configured to store digital video data representative of video information, said digital video data including content data regarding the content of the video

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information, and context data regarding a scheduling context in which said video information is desired to be presented;

a plurality of digital projector assemblies coupled to said computer storage unit;

schedule input means configured to receive show schedule information including a plurality of start times and locations at which each of a plurality of shows are scheduled to begin;

schedule means configured to access a subset of said content data in said computer storage unit responsive to said context data and said show schedule information;

production means configured to assemble presentation data including a subset of said content data, said presentation data being associated with a first show; and

a first digital projector assembly of said plurality of digital projector assemblies configured to present said presentation data such that said subset of said content data will be shown prior to a first start time associated with said first show at said first digital projector assembly.

2.   The video data scheduling system as claimed in claim 1, wherein said presentation data includes data representative of the length of time that said subset of content data will run.

3.   The video data scheduling system as claimed in claim 1, wherein said system further includes request receiving means configured to receive a job schedule request for the presentation of requested video information, and said digital content data is selected responsive to said job schedule request and assembled for presentation by said production means.

4.   The video data scheduling system as claimed in claim 1, wherein said system further includes job approval means configured to receive data representative of whether said job schedule request is approved.

5.   A video data scheduling system comprising:

a computer storage unit configured to store digital video data representative of video information, said digital video data including content data regarding the content of the video information, and context data regarding a scheduling context in which said video information is desired to be presented;

a plurality of digital projector assemblies coupled to said computer storage unit;

schedule input means configured to receive show schedule information including a plurality of start times and locations at which each of a plurality of shows are scheduled to begin at each of said pluralities of digital projector assemblies;

schedule means configured to access a subset of said content data in said computer storage unit responsive to said context data and said show schedule information;

production means configured to assemble first presentation data including a first subset of said content data and being associated with a first show, and configured to assemble second presentation data including a second subset of said content data and being associated with a second show; and

projector control means configured to present said first presentation data using said first projector assembly such that said first subset of content data will be shown prior to a first start time associated with said first show, and configured to present said second presentation data using said second projector assembly such that said second subset of content data will be shown prior to a second start time associated with said second show.

6.   The video data scheduling system as claimed in claim 5, wherein said first presentation data includes data representative of a length of time that said first subset of content data will run.

7.   The video data scheduling system as claimed in claim 5, wherein said first presentation data includes a plurality of subsets of said content data, each said subset of content data is associated with a job schedule request, and each said job schedule request is associated with at least one attribute of said first show.

8.   A video data scheduling system comprising:

a plurality of digital projector assemblies coupled to a computer storage unit;

schedule input means configured to receive show schedule information including a plurality of start times and locations at which each of a plurality of shows are scheduled to begin at each of said pluralities of digital projector assemblies;

job request means configured to receive a plurality of job requests, each job request including content data and context data that is stored in said computer storage unit;

schedule means configured to access a subset of said content data in said computer storage unit responsive to a subset of said context data and said show schedule information;

production means configured to assemble first presentation data including a first plurality of subsets of said content data and being associated with a first show, and configured to assemble second presentation data including a second plurality of subsets of said content data and being associated with a second show; and

projector control means configured to present said first presentation data using said first projector assembly such that said first plurality of subsets of content data will be shown prior to a

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first start time associated with said first show, and configured to present said second presentation data using said second projector assembly such that said second plurality of subsets of content data will be shown prior to a second start time associated with said second show.

IX.   Evidence Appendix

There is no further evidence that bears on the issues in the present appeal.

X.   Related Proceedings Appendix

There are no decisions rendered by a court or the Board in any proceeding identified above pursuant to 37 C.F.R. §41.37(c)(1)(ii).

XI.   Conclusion

For the foregoing reasons, applicant respectfully requests that the Board of Patent Appeals and Interferences reverse the Examiner's final rejection of each of claims 1 – 8.

Respectfully submitted,

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